

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

In re:

Case No. 17-02828

BOULOS F. ESTAFANOUS

Debtor.

) (Chapter 13)
)
) Hon. Janet S. Baer
)
) Hearing Date: February 24, 2016
) Hearing Time: 9:30 a.m.

NOTICE OF MOTION

To: See Attached Service List

PLEASE TAKE NOTICE that on February 24, 2017, at 9:30 a.m., or as soon thereafter as counsel may be heard, I shall appear before the Honorable Judge Janet S. Baer presiding in Room 240 at the Kane County Courthouse at 100 S. Third Street, Geneva, Illinois, and then and there present Plaintiff's Motion to Dismiss Bankruptcy Case a copy of which is served upon you.

ABC BANK

/s/ William A. Castle, Jr.
One of Its Attorneys.

William A. Castle, Jr. (ARDC no. 6288893)
Robbins, Salomon & Patt, Ltd.
Attorneys for ABC Bank
180 N. LaSalle St., Suite 3300
Chicago, IL 60601
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CERTIFICATE OF SERVICE

I, William A. Castle, Jr., an attorney, served a copy of ABC Bank's Motion to Dismiss Bankruptcy Case and corresponding Notice of Motion upon all the following parties entitled to notice in this cause:

See Service List Attached

by depositing the same in the United States Postal Service mail chute at 180 North LaSalle Street, Chicago, Illinois 60601 before 5:00 p.m. on February 13, 2017 with proper, prepaid first class postage affixed thereon and as otherwise indicated on the Service List below. Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this Proof of Service are true and correct.

SERVICE LIST

(In re Debtor Boulos F. Estafanous, Case No. 17-02828)

Glenn B Stearns, Trustee
801 Warrenville Road Suite 650
Lisle, IL 60532

U.S. Trustee
Patrick S Layng
Office of the U.S. Trustee,
Region 11
219 S Dearborn St
Room 873
Chicago, IL 60604

Orlando Velazquez
Sulaiman Law Group, LTD
900 Jorie Blvd
Ste 150
Oak Brook, IL 60523
(Counsel for Debtor)

Ms. Shara A. Netterstrom
Manley Deas Kochalski LLC
One East Wacker, Suite 1250
Chicago, IL 60601
(Counsel for HSBC Bank USA, N.A.)

DuPage County Treasurer
421 N. County Farm Road
Wheaton, IL 60187

Wells Fargo Home Mortgage
P.O.Box 10335
Des Moines, IA 50306

Illinois Department of Revenue
Bankruptcy Section
PO Box 64338
Chicago, IL 60664-0338

Internal Revenue Service
Centralized Insolvency
Operation
PO Box 21126
Philadelphia, PA 19114-0326

Capital One
PO Box 30285
Salt Lake City, UT 84130

Certified Services Inc.
Po Box 177
Waukegan, IL 60079

Chase Bank, N.A.
Attn: Correspondence
PO Box 15298
Wilmington, DE 19850

Choice Recovery Inc.
1550 Old Henderson Rd
Ste 100
Columbus, OH 43220

Credit One Bank, N.A.
PO Box 98873
Las Vegas, NV 89193

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
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In re:

Case No. 17-02828

BOULOS F. ESTAFANOUS)	(Chapter 13)
)	
Debtor.)	Hon. Janet S. Baer
)	
)	Hearing Date: February 24, 2016
)	Hearing Time: 9:30 a.m.

MOTION TO DISMISS BANKRUPTCY CASE

ABC Bank (“ABC”), by its attorneys, Robbins, Salomon & Patt, Ltd., hereby moves this Court, pursuant to 11U.S.C. §§ 105, 109(e) and 1307, for an order dismissing this case, and in support hereof, respectfully states as follows:

1. On January 31, 2016 (the “Filing Date”), Debtor filed his voluntary petition herein seeking relief under Chapter 13 of the Bankruptcy Code [Docket No. 1].

2. “Only an individual with regular income that owes, on the date of the filing of the petition, noncontingent, liquidated, unsecured debts of less than \$394,725 and noncontingent, liquidated, secured debts of less than \$1,184,200 ... may be a debtor under chapter 13 of this title.” 11 U.S.C. § 109(e)

3. On the date Debtor filed his Chapter 13 Petition, Debtor was obligated to creditor ABC Bank in the amount of not less than \$848,832.68 pursuant to his default on a promissory note made to ABC Bank and secured by a mortgage granted by Debtor to ABC Bank on real property commonly known as 641 E. 162nd Street, South Holland, Illinois. See the Affidavit of Frank Giganti attached hereto as Exhibit A, ¶¶ 3, 8 and 11.

4. On the date Debtor filed his Chapter 13 Petition, Debtor was obligated to creditor HSBC Bank USA, N.A., as Trustee for ACE Securities Corp. Home Equity Loan (“HSBC”), in the

amount of not less than \$436,316.11 (\$353,106.32 plus the deferred principal amount of \$83,209.79) pursuant to his default on a promissory note made to HSBC secured by a mortgage granted by Debtor to HSBC on real property commonly known as 8126 Portsmouth Drive, Darien, Illinois. See a copy of the Complaint to Foreclose Mortgage, ¶ 4(J), filed October 26, 2016 in the lawsuit pending before the Eighteenth Judicial Circuit Court of DuPage County, Illinois, styled *HSBC Bank USA, National Association, as Trustee for ACE Securities Corp. Home Equity Loan v. Boulos F. Estafanous, et al.*, case no. 2016 CH 001591 is attached hereto as Exhibit B.

5. The combined noncontingent, liquidated, secured debts of Debtor with ABC Bank and HSBC is not less than \$1,285,148.79, \$100,948.79 above the statutory jurisdictional maximum debt of \$1,184,200.00 for a Chapter 13 filing. Accordingly, Debtor is not eligible for relief under Chapter 13 of the Bankruptcy Code.

6. Pursuant to Local Rule 9013-1C(5), attached hereto as Exhibit C is a proposed draft order granting motion to dismiss.

WHEREFORE, ABC Bank respectfully requests that this court enter an order granting its motion and dismissing this case and for such other and further relief that this Court deems proper and just.

Respectfully submitted,

ABC BANK

By: /s/ William A. Castle, Jr.
One of Its Attorneys

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